

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

**NOTICE OF DECISION
PARTITION CASE NO. 20-006**

APPLICATION: Application of Scott Gunter to divide a 4.67 acre parcel into two parcels containing 3.95 acres and .72 acres each in an UT – 5 (Urban Transition – 5 Acre Density) zone located at 6658 Quarry Road NE, Silverton. (T6S; R1W; Section 26B; tax lot 600).

DECISION: The Planning Director for Marion County has **APPROVED** the above-described application subject to certain conditions.

EXPIRATION DATE: This approval is valid only when the final partitioning plat is recorded by **April 28, 2022**. The effective period may be extended for an additional year subject to approval of an extension (form available from the Planning Division). **Additional extensions may not be granted if the regulations under which this decision was granted have changed since the original approval.**

WARNING: A decision approving the proposed division is for land use purposes only. Due to septic, well, and drain field replacement areas, these parcels may not be able to support a dwelling. To be sure the subject property can accommodate the proposed use the applicant should contact the Building Inspection Division, (503) 588-5147.

This decision does not include approval of a building permit.

CONDITIONS: The following conditions must be met before a building permit can be obtained or the approved use established:

1. The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036). Following plat approval it shall be recorded with the Marion County Clerk (plat instructions enclosed). **This shall be accomplished prior to issuance of any building permit(s) on the resulting parcels.**
2. The applicant is advised that a Partition Plant Service Report, from a title company, will be required upon submission of the final Mylar to the County Surveyor.
3. Public Works Land Development Engineering and Permits Division (LDEP) will not approve the use final plat for recordation until the following conditions have been satisfied:

Condition A – On the plat, depict the following dedications to the public for roadway purposes in accordance with City of Silverton TSP road standards:

- 1) 30-foot total half-width on Quarry Road for a Local street
- 2) 37-foot total half-width on Hobart Road for an Arterial street
- 3) 25-foot southwest property corner radius for intersection of Arterial and Local streets.

Condition B – Prior to plat approval, notarize a Non-Remonstrance Agreement tied to the proposed smaller east parcel for concurrent recording with the plat that confirms future non-objection to permanently close the Hobart Road access under a permit to do so if and when alternate access becomes available, at the direction of the appropriate governing agency.

Condition C – Prior to plat approval, obtain an Access Permit, and under the permit permanently close the Quarry Road south loop access approach, and narrow the north access loop approach to 24 feet while adding compacted crushed rock to fill in any ruts and bring it level with the roadway pavement.

4. The resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director. All parcels shall be a minimum two acres in size.

ADDITIONAL CONDITIONS: Once the approved use is established the following conditions must be continually satisfied:

5. After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from by Planning Director.

OTHER PERMITS, FEES, AND RESTRICTIONS: This approval does not remove or affect covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits and/or fees from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for, obtaining other permits or satisfying restrictions or conditions. It is recommended that agencies mentioned in Finding #5 below be contacted to identify restrictions or necessary permits. The applicant is advised of the following:

6. Prior to recording the plat all taxes due must be paid to the Marion County Tax Department (contact the Marion County Tax Department at 503-588-5215 for verification of payments).
7. The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories, listed in Finding #5 below, that may be required.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must condition or deny the application. Anyone who disagrees with the decision may request that the application be considered by a Marion County hearings officer after a public hearing. The applicant may also request reconsideration (one time only and a fee of \$200) on the basis of new information subject to signing an extension of the 120 day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Requests for reconsideration, or consideration by a hearings officer, must be in writing (form available from the Planning Division) and received, together with the appeal fee, in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem by 5:00 p.m. on **April 28, 2020**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **April 29, 2020** unless further consideration is requested.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The property is designated Single Family in the City of Silverton. The major purpose of this designation and the corresponding UT-5 (Urban Transition -5 Acre Density) zone is to provide areas for future residential development once the property is annexed into the City.
2. The property is located inside the Silverton Urban Growth boundary on northeast corner of the intersection of Quarry Avenue NE and Hobart Road NE. The property contains to home sites along with septic systems and accessory structures. Based on building permit records the property is a lawful parcel.
3. Adjacent property to the south, across Hobart Road, and southwest are inside the Silverton City Limits and devoted residential uses. All other surrounding properties are zoned UT-5 and contain home site.
4. The applicant proposes to divide the 4.67 acre parcel into two parcels containing 3.95 acres and .72 acres each. Each of the resulting parcels will contain one of the existing dwellings.
5. **Public Works Land Development and Engineering Permits (LDEP)** requested that the following conditions be included in the land use decision:

Condition A – On the plat, depict the following dedications to the public for roadway purposes in accordance with City of Silverton TSP road standards:

- 1) 30-foot total half-width on Quarry Road for a Local street
- 2) 37-foot total half-width on Hobart Road for an Arterial street
- 3) 25-foot southwest property corner radius for intersection of Arterial and Local streets.

The above Condition is in accordance with Marion County Code (MCC) 16.33.220 for radius and 16.33.260 for respective widths by which adequate right-of-way bordering the subject property shall be dedicated in the event of a partition. Furthermore, MCC 16.27.210 (E) (7) provides for deference to local city standards. Nexus for the additional right-of-way is general road safety and drainage features, as well as lateral space to accommodate utilities.

Condition B – Prior to plat approval, notarize a Non-Remonstrance Agreement tied to the proposed smaller east parcel for concurrent recording with the plat that confirms future non-objection to permanently close the Hobart Road access under a permit to do so if and when alternate access becomes available, at the direction of the appropriate governing agency.

Nexus is in keeping with the adopted Marion County Rural Transportation System Plan (MCRTSP) Section 10.3.5, Policy #11: (a) Direct access to Arterials from adjacent parcels should not be allowed if alternative access is available or can be made available, and (b) When the option is available, access shall be derived from the roadway having the lower functional class. Furthermore, the Hobart Road access does not meet the Arterial road spacing standard relative to the adjacent east parcel addressed #14013 Hobart Road [MCRTSP Table 10.1]. MCPW Engineering will prepare the document; please contact John Rasmussen to coordinate this.

Condition C – Prior to plat approval, obtain an Access Permit, and under the permit permanently close the Quarry Road south loop access approach, and narrow the north access loop approach to 24 feet while adding compacted crushed rock to fill in any ruts and bring it level with the roadway pavement.

Access criteria is an Engineering standard in accordance with MCC 11.10; however, it is being elevated to Condition status as a matter of timing for completion. County access policy is that each residence will be allowed one (1) access point to the public road, and also meet width tolerance. MCPW has no access related records on file for this property that would corroborate prior approval of the looped access. Please note that the portion of driveway loop on private property beyond what will be an expanded 30-foot setback from the centerline of right-of-way may remain in place.

ENGINEERING ADVISORY

D. Marion County has permitting authority over Hobart Road and Quarry Road. Any future utility work in those public right-of-ways would also require Utility Permits from MCPW Engineering, aside from City permits.

Marion County Surveyor commented: “Parcels ten acres and less must be surveyed. Per ORS 92.050, plat must be submitted for review. Checking fee and recording fees required. A current or updated title report must be submitted at the time of review. Title reports shall be no less than 15 days old at the time of approval of the plat by the Surveyor’s Office, which may require additional updated reports.”

Marion County Tax Assessor provided information regarding taxes of the subject parcels.

City of Silverton commented that both parcels would meet R-1 dimensional standards if annexed into city limits. Parcel configuration would not preclude future development if annexed.

All other contacted agencies either failed to comment or stated no objection to proposal.

6. In order to partition land in a UT zone the following standards and criteria in Chapter 16.13.310 of the Marion County Code (MCC) apply:

- A. *A series partition, subdivision, residential planned development, or other residential development of a lot, as the lot existed upon application of the UT zone, that results in the division of land into four or more lots intended to be occupied by dwellings or mobile homes is not permitted in the UT zone.*

This proposal is to create a total of two lots, this criteria is met.

- B. *The following regulations shall apply when property line adjustments and partitioning of land regulated by Chapter 16.33 MCC, Subdivision and Partition Requirements, are proposed:*

1. *Additional street right-of-way required by adopted county standards shall be dedicated along the street frontage of any lot 10 acres or less in area that is part of a partition or lot line adjustment. Street and drainage improvements within the dedicated right-of-way shall be deferred until otherwise required by the county, or by the city following annexation. A non-remonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.*

Additional right-of-way dedication was requested by Public Works and will be made a condition of approval. The city did not request a non-remonstrance agreement; therefore, this will not be made a condition of approval.

2. *The location of lot lines shall not significantly reduce feasible options for the future location of urban streets or utility services, or preclude development options on the property or adjacent properties.*

The City of Silverton verified that the lot configuration would accommodate future development when the property is annexed into the city. This criterion is met.

3. *When a lot occupied by a residence is reduced, or a lot is created to accommodate a new residence allowed in MCC 16.13.320, the lot should be as small as possible and should not be larger than one acre. If a lot of one acre or less is not feasible, the lot should either contain all of the undeveloped land or be large enough that the urban development potential will be a significant incentive for the owner to develop to planned urban uses when the lot is annexed.*
4. *When a new or adjusted lot located in a residential plan designation is smaller than five acres and larger than one acre, a redevelopment plan shall be required demonstrating that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. The zoning administrator shall review and approve the redevelopment plan. The redevelopment plan is only for the purposes of identifying a feasible means to subdivide the property and to identify an appropriate location for residences, and does not limit consideration of other development options when urban services are available.*

The 7.5 acre parcel will retain the existing dwelling and out buildings; the 2 acre parcel will contain two existing communications towers and associated ground equipment areas. No new homes are proposed as part of the partition. These criteria are met.

5. *New lots shall have no dimension less than 80 feet.*

All lot dimensions are excess of 80 feet. This criterion is met.

6. *When a lot located in a residential plan designation and occupied by a nonresidential use is created or altered, the lot should include as little undeveloped land suitable for residential uses as possible, unless evidence is presented that undeveloped land needs to be included in the lot to accommodate allowable expansion of the subject use.*

The applicant has demonstrated that the proposed 0.27 acre is the minimum need to accommodate one of the existing dwellings. This size is the minimum area needed to accommodate the existing use. This criterion is met.

7. *The minimum lot size, in acres, for lots in nonresidential plan designations is the numerical suffix added to the UT zone (i.e., one acre, three acres, five acres, 10 acres or 20 acres), or if no suffix is added, five acres.*

The parcel is located in a residential plan designation; this criterion does not apply.

7. Based on the above findings, the request complies with the applicable criteria and is, therefore **APPROVED**, subject to conditions

Joe Fennimore
Planning Director

Date: April 13, 2020

If you have any questions regarding this decision contact Joe Fennimore at (503) 588-5038

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.